But at last it is out and a copy has been delivered or mailed to every member of the society. If some there be who were annoyed at the delay, will they please bear in mind the possible degree of annoyance to everyone in the State Society office—and forgive!

TO LICENSE CALIFORNIA GRADUATES WITHOUT EXAMINATION.

There is a bill before the present Legislature that looks so good at first glance, to the average citizen, that it seems likely to be well thought of by the legislators and to pass. It is a bill to license all graduates of legally chartered and reputable medical schools in California, to practice without an examination by the Board of Medical Examiners. Of course the osteopathic schools will be graduating "doctors of medicine" and of course they are legally chartered and, equally of course, they will howl mightily that they are most "reputable"—in spite of the minutes of the Board of Examiners!

VENARSEN.

This product, prepared by the H. M. Fletcher Co., Inc., Los Angeles, California, is being extensively exploited as an intravenous injection for the treatment of syphilis, pellagra, tuberculosis, anemia, etc. This product is described in this number of the Journal, in the Department of Pharmacy and Chemistry, p. 159. It is almost criminal for physicians to use a preparation of secret composition and to administer it by intravenous injection, a method which in itself is likely to give rise to accidents.

THE IMPUDENCE OF T. FLOYD BROWN, M. D.

Unfortunately he is really a graduate in medicine and licensed to practice in California. His name is T. Floyd Brown and at one time he was a member of the Los Angeles County Medical Association, but he was dropped from that organization for unethical conduct. He keeps up the same sort of conduct, but like most of his kind, is a plausible talker and writer and may deceive some of our less suspicious members. He is promoting a special "no-detention" secret treatment of his own, for the morphine-opium habit, and has sent circular letters to a great many, if not all, physicians in this state. He announces in one of his circulars that he has opened a San Francisco office (headquarters being in Los Angeles) and in letters states that he has secured the services of a physician in San Francisco to look after his business. The physician mentioned called at the JOURNAL office and stated emphatically that he would have none of T. Floyd Brown or his treatment or his methods. Quite a nice mess. Just remember something of the record of T. Floyd Brown, when his letters and circulars come to your office, and cast them into the waste basket.

OUR LAW DEPARTMENT.

Every activity of the Society is growing, and this includes the work of our legal department. The actual defense of alleged malpractice suits is only a part of the work; our attorneys do a great deal of work for the members, in smoothing things over, preventing suits, advising, and the like. We should appreciate this and co-operate with them. Our members should bring to our attorneys their law work outside of suits and threats for damages; such work as the preparation of wills, deeds, contracts, etc. Our attorneys are the best all-around attorneys that we can secure and they can attend to your private work as well as to your interests when you are threatened or sued by some disgruntled patient. That is, if they have the time. We now have first-class attorneys representing us in several centers and before long we will undoubtedly have a legal representative in nearly all of the larger places in the state. Do not think or feel as one physician did, who said to one of our attorneys: "I suppose you specialize on malpractice cases, and you would not attend to drawing my will"! This shows a sad lack of understanding of a lawyer's business, for he would not be a good lawyer to defend you in a malpractice suit if he were not a good lawyer in every way; with a sound knowledge of the law in general and a first-class understanding of procedure and general law practice. In a letter, one of our attorneys, discussing several matters of general interest to the Society, said: "The handling of malpractice cases is a losing proposition from a lawyer's standpoint, as commercial work is not as difficult work and pays him directly and indirectly very much more." It is evident that eventually the Society will be doing a great deal of law work for its members, but the members must come in closer touch with our attorneys and the relations between them must be more friendly and more personal and must not be confined to this one subject of malpractice matters.

MEDICAL DEFENSE DISCUSSION.

Two communications of importance have been received in answer to the request to our members to set forth their views on the subject of medical defense by the Society and the rules pertaining thereto. Dr. Kreutzmann brings out some very broad general principles which may well be carefully thought over and perchance acted upon in the future; there seems no reason why a stupid judge should not be made to know that we are aware of his stupidity or injustice; and such things do happen.

Dr. Juilly brings up a number of detail points and they are open for discussion. Does it work a hardship on any physician to require that he shall not sue to collect an account within one year without first putting his case and account before the Council? Many physicians do not approve of suing for accounts at all. Dr. Juilly is wrong in some of his assumptions. The majority of people who refuse to pay their accounts and threaten counter suits do not belong to the migratory class of hotel dwellers. And as a matter of business

sense, is it wise to pay out $500 to $1000 in order to collect fifty or a hundred? The doctor is correct in saying that the Medical Defense feature has built up and solidified the Society; over 90% of all assessments were paid before the first of March. The fundamental principle of the rules that have been made is, as stated, to protect the careful members against the burden which might be placed upon them by the careless or inconsiderate members. Insurance companies do not "take all our risks for a certain yearly premium"; they get out of every case they can if they can find the slightest technicality. Over and over again the State Society has taken care of a member who had insurance but the company said the case did not come within their policy provisions. The expenses for medical defense are not "for the benefit of a very limited number of our members" and in only two instances since we began the work in 1909, has a member twice called upon our legal department to defend him. Cases arising from "contract practice" and the like are to be, as ordered by the House of Delegates, considered by the Council and not defended by us unless the Council approves. The various rules have been made in order to do exactly what Dr. Juilly suggests should be done—"for equal charges, benefits should be equal to all"; in other words, to protect the careful against the inroads of the careless and the inconsiderate. In regard to the suggestion of publishing the details of suits, names of members, cost, etc., our attorneys very emphatically advise against it for a number of reasons. No man likes this sort of publicity. It is not good business policy to let the world in general know about your troubles and what they cost you. It is unfair to the man who is unfortunate enough to be the victim of such proceedings and of expense to the Society. Here follow the two letters mentioned:

To the Editor,
California State Journal of Medicine:

In the January 1915 issue of the JOURNAL we are informed that owing to the ever increasing number of suits for malpractice, the medical defense department of the State Association is compelled to make a few restrictions in their work, to wit: In fracture cases no aid will be given in a suit if defendant has neglected to take an X-ray picture; also aid is refused if defendant has brought action to collect a fee inside of a year after services were rendered.

This is well and good as far as it goes, but it is symptomatic treatment and does not strike at the root of the evil.

If the expenses for defending lawsuits of the members of the State Medical Association are to be kept inside a reasonable limit, a few fundamental things have to be done.

In my opinion, the most important of all is publicity—wide publicity, for all attempted, threatened, or actually acted suits for alleged malpractice of any members of the State Society.

I know physicians are averse to having their failures, ill successes, etc., published, notwithstanding the fact that such failures and ill successes are of daily occurrence. We hear only of wonderful cures and operations with uninterrupted recoveries, in papers and publications. But we all are having failures, we are all making errors of diagnosis, errors of judgment; only fools and ignoramuses are free from committing an error of judgment; we are, so to say, legally entitled to commit an error of judgment; what the law demands from us is the exercise of "ordinary care and skill of the profession," not the employment of the latest ephemeral fads in diagnosis or treatment, the employment of which is, unfortunately, by many considered as great care and skill.

Now, my friends, if you are really in earnest for the reduction of the number of lawsuits, and incidentally interested in an ethical uplift of the medical profession (alas, so urgently needed!), two things have to be done. The actions of a judge who sits in a court of justice, where a case of malpractice (or of collection of a medical fee) is brought, should be a matter of the closest attention and observation by the medical profession. We do not want any favors from the judiciary, but we demand a fair, impartial, fearless ruling and decision, and that is not always the case. All the judges are elected; we physicians and our friends represent a very respectable number of votes; if the judges know that their rulings and decisions are watched by the medical fraternity; that an unjust, unwarranted ruling or decision would be brought to the attention of the organized medical fraternity and made a means to campaign against their reelection—the judges would be very careful, and such manifestly unjust rulings and decisions as have been rendered in the past to the greatest detriment of honest, hard-working medical men, would become very rare.

Second, careful attention and wide publicity should be given to the testimony of medical "experts"; there is in 99 out of 100 cases some dirty, underhand work done in testifying for a plaintiff in a suit for alleged malpractice. No case can be brought into court unless the plaintiff can procure the testimony of a reputable practitioner to the effect that in handling the case defendant has not employed ordinary care and skill. It must be brought home to the profession that a physician who is willing to discuss testimony with a client or lawyer in order that a suit of malpractice against a confrere may be instituted, is a contemptible creature, not fit to mingle in decent medical society.

One can conscientiously say that almost all these suits for malpractice are attempts at extortion, blackmail suits, without any foundation in fact, without merit.

A physician who through his testimony aids and abets such a suit, a physician who expresses willingness to give testimony in such a suit; who through his willingness encourages the bringing of such a suit—that physician makes himself through his actions a party to a blackmailing crowd.

A committee should be created for the purpose of watching all legal actions against members, this committee to investigate and report to the committee on ethics. The committee on ethics should on

its own initiative, after careful investigations, institute proceedings for unethical conduct against any one so low as to become a party to a blackmailing suit. The actions of any physician who is found to have aided in such unethical despicable manner, should be widely made known throughout the medical profession by means of the medical press; the offender should without ceremony be ejected from the local County Society.

Just tackle one or two of these fellows in this way and the number of law suits for alleged malpractice—the curse of our profession—will materially decrease. It is not shielding incompetence or carelessness, but it is simply the duty of self protection to demand that a practitioner in medicine be considerate and careful in his judgment of the acts of a fellow practitioner.

Do we ever hear of law suits that have been threatened, instituted and acted before a judge? Are ever the acts of the judge criticized, the expert testimony analyzed? It is only a short time since a suit for alleged malpractice was brought and acted (and lost by the plaintiff) before a superior judge in this city; do we hear anything about it?

The committee on ethics should investigate this matter of greatest importance to the medical profession and should act without fear or prejudice—it will have the hearty support of all decent members of the County and State Society.

Something has to be done!

Sincerely yours,

DR. HENRY J. KREUTZMANN.

To the Editor, California State Journal of Medicine:

I wish to make a few remarks on the subject of the Medical Defense of our State Society.

I first note that the restrictions imposed upon our members, before they can make use of this protection, are becoming more and more numerous, drastic and impracticable. When members are required to pay their dues in advance, this requirement is perfectly natural and just. But when members are required, as is done now, to wait a year before suing a refractory client, I believe this restriction works an unnecessary hardship on many of us.

The majority of the people who refuse to pay their doctors belong to that migratory class which lives in hotels and lodging houses, which constantly changes residence, and appears to be never settled anywhere. What chance has a physician to collect his fee from these people at the expiration of a year? None whatever. The redress our attorney offers us to consult him or the Secretary of the Society before bringing suit would compel these two gentlemen to read and answer a deluge of correspondence, stating facts and opinions on a thousand different cases. If his suggestion was to be put into practice, our attorney would no doubt be the first one to rescind his offer.

This dictum of our attorney can only have one aim; that of limiting as much as possible the number of malpractice suits instituted as cross complaint for the collection of money for services rendered. Now this limitation can only indicate that the defense fund of our Society is too small for the work to be done.

Our attorney's suggestion is then, without doubt, a measure of prudence; but allow me to say that, prudent or not, I believe it to be unjust for the majority of us. And this brings me to discuss the merits of our system of Medical Defense, as I see it.

We must admit, first of all, that the very principle of this defense is correct, since it allows a group of men to defend its individual members against malice and blackmail, without hardship for them, and at the same time, upholds the honor and dignity of our profession in general.

We must admit also that this defense is a good thing for our Society. Since it has been instituted, membership has no doubt augmented, dues have been paid promptly and in advance, and preclusions must have diminished in notable proportions. The members then, must have accepted this new branch of activity of their Society, as a profitable investment.

I am afraid, however, that the new restrictions imposed upon them in the exercise of their rights, and those that will no doubt be imposed later,—if they do not protest,—will finally drive our members back to the genuine and efficacious protection of private concerns which take all our risks for a certain yearly premium.

It would indeed be interesting for the general membership who pay equally for a certain legal protection, to know if they all receive their money's worth. I know very well that we all are liable to be sued for malpractice, and at a time we the least expect it. But, barring this possible restriction, I have a faint idea that our fund of medical defense is spent for the benefit of a very limited number of our members. It would be interesting to know the names of those who have already been defended, how often they have been defended, and how much money has been spent for their defense. Understand me well: I do not question here in the least, the absolute integrity of anyone connected directly or indirectly with our system of Medical Defense. I simply mean that some of our members are unfortunate enough to be made defendants to several suits; that our fund is exhausted to defend them, leaving our treasury empty to defend us.

I will explain. If we all had the same quantity of practice, among clients of the same social class, the chances of malpractice suits would be about equal among all of us. But the reality is very different.

It is evident that a surgeon, with an extensive practice, is much more liable to be sued than a practitioner who does no surgery at all. Yet both pay the same premium to our Society.

Again, some of our members who have accepted to work for some industrial accident insurance societies, and who give their services to such a great number of people,—a number so great in

fact, that, in the majority of cases, their care cannot possibly be conscientious,—do not these doctors threaten our fund of defense in a continual and not imaginary manner? And yet, these men pay no more than we do for their protection.

Would it not be fairer to have these men pay for their protection according to the risks they incur? If the rate of one or two dollars a year is considered sufficient to protect the great majority of our members, having a *really private* practice, let those who accept contract practice, or who belong to the staff of certain private hospitals pay us a premium appropriated to the increased risks they incur, or, better, let them be defended, in case of malpractice suit, by those who employ them.

If such was done, I believe it would become unnecessary to prevent members of our Society to wait a year,—that is to give our refractory clients time to disappear and make new victims,—before bringing them to justice to compel them to do their part of an honest contract.

I am more than ever a believer in mutuality; but, it seems to me that the very essence of mutuality is that for equal charges, benefits should be equal to all. Believe me,

Yours fraternally,

GEORGE H. JUILLY, M. D.,

133 Geary street.

THE REDUCTION OF DIPHTHERIA MORBIDITY.*

WILBUR A. SAWYER, M. D., Director of the Hygienic Laboratory of the California State Board of Health.

The introduction of diphtheria antitoxin into general use in 1894 was followed in the next few years by a rapid decline in the mortality from this disease. The number of deaths from diphtheria decreased by from 50 to 75 per cent. The direct relation of this decrease to the use of antitoxin was shown by the coincident drop in the mortality in many different cities whose experiences with diphtheria were otherwise dissimilar.[1] With a curative agent so efficient as diphtheria antitoxin the number of deaths should have been reduced to a very small fraction of the total number of cases, but the rapid initial fall due to antitoxin has ceased. During the last decade the number of deaths has remained nearly at equilibrium, at about ten per cent. of the reported cases. A slight fall in this mortality as compared with the number of reported cases has occurred in recent years. It is, no doubt, largely due to a still greater use of antitoxin, and to a more complete reporting of the milder cases.

This statement of the present rather constant ratio of deaths to reported cases—approximately ten per cent.—is based on figures collected from various sources and presented in Charts I, II, and III.[2] In these charts the morbidity from diphtheria is shown on the basis of 1,000 of population, and the mortality on the basis of 10,000. Thus the number of deaths is ten per cent. of the number of cases when the curves coincide. The proximity of the mortality and morbidity curves for any one city shows how closely the deaths approach ten per cent. of the reported cases.

In Chart I are compared the morbidity and mortality from diphtheria in Berlin, New York, and California, the latter being represented by the combined statistics of San Francisco and Los Angeles. Enormous fluctuations in the number of deaths have occurred in opposite directions at the same time in countries using similar methods of treatment and control. By strange coincidence the height of Berlin's epidemic occurred in the same year as the lowest death rate in California. It is evident, when we consider large groups of people, that today the chief factor that determines the death rate is the number of cases, and that fluctuations are only in part attributable to present-day preventive measures. While antitoxin is capable of further reducing the relative mortality, its early and generous application is interfered with in many cases of diphtheria by ignorance, prejudice against scientific medicine, delayed or wrong diagnosis, or an exaggerated fear of anaphylaxis. These factors can be counteracted only slowly, through education and publicity. Sudden and marked lessening of the death rate through better treatment of the sick cannot hereafter be expected.

The mortality from diphtheria presents a very serious problem in America. From 1900 to 1912, inclusive, the number of deaths per annum from diphtheria and from typhoid fever in the Registra-

* Read before the San Francisco County Medical Society, February 9, 1915.